

REMARKS

This paper is submitted in response to the Office action dated June 29, 2009 (the "Office Action").

Claims 38-53, 55-70, 111, 113-124, 126-137, 139-150, 152-163, 165-177, 179-191, 193-205, 207-219, 221, and 223-227 are pending in the application.

Claims 54, 220, and 222 have been canceled in this paper.

Claims 38-53, 55-70, 111, 118, 124, 131, 137, 144, 150, 157, 163, 165-168, 177, 179-182, 191, 193-196, 205, 207-210, and 224-227 stand rejected.

Claims 113-117, 119-123, 126-130, 132-136, 139-143, 145-149, 152-156, 158-162, 169-176, 183-190, 197-204, 211-219, 221, and 223 are under objection. See Office Action, p. 15.

The amendments add no new matter. Support for the amendments may be found throughout Applicant's Specification and Drawings as originally filed, for example in p. 19, line 28—p. 21, line 11; p. 35, line 13—p. 37, line 14. (Additional support can be found in FIG. 5 and the accompanying text of U.S. Patent Application No. 09/232,395, which was incorporated by reference in the present application.) While not conceding that the cited reference(s) qualify as prior art, but instead to expedite prosecution, Applicant has chosen to respond as follows. Applicant reserves the right to establish that the cited reference(s), or other references cited thus far or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicant also reserves the right, for example in a continuing application, to pursue the previously pending claims or claims similar thereto. Applicant

respectfully submits that the pending claims are allowable in view of the following remarks and the above amendments, and respectfully requests reconsideration of the pending rejections.

Allowable Subject Matter

Applicant is grateful for the updated indication that that objected claims 54, 113-117, 119-123, 126-130, 132-136, 139-143, 145-149, 152-156, 158-162, 169-176, 183-190, 197-204, 211-221, and 223 would be allowable if rewritten in independent form, including all the limitations of the base claim and any intervening claims.

Applicant has amended independent claim 38 to include the limitations of allowed claim 54, which has now been canceled. At least for this reason, Applicant respectfully submits that amended independent claim 38 and all claims dependent thereon are therefore in condition for allowance.

Applicant has amended independent claim 111 to include the limitations of allowed claim 220, which has now been canceled. At least for this reason, Applicant respectfully submits that amended independent claim 111 and all claims dependent thereon are therefore in condition for allowance.

Formal Matters: Claim 222 (Now Claim 163)

On p. 14, the Office Action states that claim 222 is under rejection under § 103(a). The Office Action does not appear, however, to set forth any explanation for the rejection of claim 222. Applicant therefore understands that the subject matter of claim 222 was therefore allowable, and that the indicated rejection of claim 222 was a clerical error.

Applicant has amended independent claim 163 to include the limitations of claim 222, which has now been canceled. Claim 222 depended on independent claim 163. Accordingly, Applicant understands that independent claim 163 is now in condition for allowance.

If the Examiner should maintain the rejection of claim 163 by introducing new grounds of rejection for the previously-examined limitations from claim 222, Applicant respectfully notes that those grounds must be presented in a subsequent non-final Office Action, in accordance with MPEP § 706.07(a), since such new grounds of rejection are not necessitated by Applicant's submission. Moreover, only a non final Office Action would provide Applicant with a full opportunity to respond to the new grounds of rejection.

Formal Matters: Claims 118, 131, 144, and 157

The Office Action indicates that claims 118, 131, 144, and 157 are among the claims rejected under §102(e). See Office Action, p. 12. However, the ensuing discussion is silent regarding the limitations of these claims.

The Office Action fails to even allege that the cited references teach "identifying said at least one link state advertisement in a link state database maintained at said downstream node," as recited in claim 118. The Office Action similarly ignores limitations of claims 131, 144, and 157. Applicant therefore believes that the indicated rejections of claims 118, 131, 144, and 157 are a clerical error, and that claims 118, 131, 144, and 157 are allowable under § 103.

As discussed below, Applicant believes that claims 118, 131, 144, and 157 are allowable at least in view of their respective dependences on amended independent claims 111, 124, 137, and 150. However, if the Examiner should maintain the rejection of claims 118, 131, 144, and 157 by introducing new grounds of rejection, Applicant respectfully notes that those grounds

must be presented in a subsequent non-final Office Action, in accordance with MPEP § 706.07(a), since such new grounds of rejection are not necessitated by Applicant's submission.

Formal Matters: Claim 48

The Office Action indicates that claim 48 is among the claims rejected over Spiegel in view of Perlman. See Office Action, p. 5. However, the ensuing discussion of claim 48 does not appear to adequately address the limitations of claim 48. The Office Action makes a brief observation regarding protocol packets and initialization packets in Applicant's Specification, and then makes a terse conclusion about claim 48: "therefore, the protocol packet disclosed by Spiegel in claim 38 is initialize packet." See Office Action, p. 9.

Even if the Office Action's observation regarding protocol packets and initialization packets were a fair characterization of Applicant's Specification (a point which Applicant does not concede), the subsequent conclusion does not logically follow. For example, the Office Action does not point to any aspect of the references as supporting the rejection but rather, turns only to Applicant's Specification. Moreover, it is not clear what is meant by the reference to "Spiegel in claim 38," since Spiegel does not have a claim 38. Applicant therefore believes that the Office Action's incomplete discussion of Applicant's claim 48 is a clerical error, and notes that this discussion, on its face, fails to support the rejection of claim 48.

As discussed below, Applicant believes that claim 48 is allowable at least in view of its dependence on amended independent claims 38. However, if the Examiner should maintain the rejection of claim 48 by introducing new grounds of rejection, Applicant respectfully notes that those grounds must be presented in a subsequent non-final Office Action, in accordance with

MPEP § 706.07(a), since such new grounds of rejection are not necessitated by Applicant's submission.

Claim Objections

Claim 221 is under objection. Claim 221 was dependent on claim 222. The Office Action asserts that it is improper for a claim to be dependent on a claim that has a larger number. Applicant disagrees with this assertion. See 37 C.F.R. § 1.126, § 608.01(n)(IV) of the *Manual of Patent Examining Procedure* (Ed. 8, Rev. 7, Jul. 2008) ("MPEP").

Nonetheless, Applicant has amended claim 221. As amended, claim 221 depends on claim 163, which is a lower number than 221. Accordingly, Applicant respectfully requests that the objection to claim 221 be withdrawn.

Rejections under § 112, second paragraph

Claims 225-227 stand rejected under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action expresses a concern with regard to the claim language of claim 225. As amended, claim 225 no longer includes the claim language in question. Support for the amendment may be found, for example, in p. 35, line 20—p. 36, line 3 the original Specification.

With regard to claims 226 and 227, the Office Action objects to a matter of form relating to antecedent basis. Applicant has addressed the matter by correcting the dependencies of these claims. As amended, claims 226 and 227 depend on claim 225, which provides the appropriate antecedent.

In view of these amendments, Applicant respectfully requests that the rejections under § 112, second paragraph be withdrawn.

Rejections under § 102(e) over Fukushima

Claims 111, 118, 124, 131, 137, 144, 150, 157, 163, 177, 191, 205, and 224 stand rejected under 35 U.S.C. § 102(e) as purportedly being anticipated by U.S. Patent No. 6,490,246 issued to Fukushima et al. (“**Fukushima**”). Office Action, p. 12.

Independent claims 111, 124, 137, and 150.

The Office Action indicates that claim 220, which depended directly on claim 111, is allowable. **Applicant has amended independent claim 111 to include the limitations of allowed claim 220**, which has now been canceled. Accordingly, claim 111 is now believed to be in condition for allowance.

Independent claims 124, 137, and 150 have been similarly amended. Claims 118, 131, 144, 157, and 224 depend variously on independent claims 111, 124, 137, and 150. Applicant therefore respectfully submits that claims 118, 124, 131, 137, 144, 150, 157, and 224 are also in condition for allowance.

Accordingly, Applicant respectfully requests that the rejections under § 102(e) of claims 111, 118, 124, 131, 137, 144, 150, 157, and 224 be withdrawn.

Independent claims 163, 177, 191, and 205.

The Office Action does not appear to set forth an explanation for the rejection of claim 222, which depended directly on claim 163. As discussed above, Applicant believes claim 222 to be allowable. **Applicant has amended independent claim 163 to include the limitations of claim 222**, which has now been canceled. Accordingly, claim 163 is now believed to be in condition for allowance.

Independent claims 177, 191, and 205 have been similarly amended. Applicant therefore respectfully submits that claims 177, 191, and 205 are also in condition for allowance.

Accordingly, Applicant respectfully requests that the rejections under § 102(e) of claims 163, 177, 191, and 205 be withdrawn.

Rejections under § 103(a) over art including Spiegel and Perlman

Independent claim 38 stands rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over U.S. Patent No. 5,649,108 issued to Spiegel et al. (“**Spiegel**”) in view of U.S. Patent No. 5,455,865 issued to Perlman (“**Perlman**”). Office Action, p. 5. Claims 39, 48-51, and 55-68 depend on independent claim 38, and also stand rejected under § 103(a) as purportedly being unpatentable over Spiegel in view of Perlman. Office Action, pp. 5, 9-11. Claims 41 and 45 depend on independent claim 38 and stand rejected under § 103(a) as purportedly being unpatentable over Spiegel in view of Perlman in view of knowledge available to a person having ordinary skill in the art. Office Action, pp. 5, 8. Claim 69 depends on independent claim 38, and stands rejected under § 103(a) as purportedly being unpatentable under § 103(a) over Spiegel in view of Perlman and U.S. Patent No. 6,430,150 issued to Azuma, et al. (“**Azuma**”). Office Action, p. 7. Claims 40 and 47 depend on independent claim 38, and stand rejected under

§ 103(a) as purportedly being unpatentable over Spiegel in view of Perlman, and further in view of U.S. Patent No. 5,850,526 issued to Chou (“**Chou**”). Office Action, p. 7 Claims 43 and 44 depend on independent claim 38, and stand rejected under § 103(a) as purportedly being unpatentable over Spiegel in view of Perlman, and further in view of U.S. Patent No. 5,197,127 issued to Waclawsky et al. (“**Waclawsky**”). Office Action, p. 8. Claims 42 and 46 depend on independent claim 38, stand rejected under § 103(a) as purportedly being unpatentable over Spiegel in view of Perlman, and further in view of U.S. Patent No. 6,092,086 issued to Martin et al. (“**Martin**”). Office Action, p. 9. Claim 52 depends on independent claim 38, and stands rejected under § 103(a) as purportedly being unpatentable over Spiegel in view of Perlman, and further in view of U.S. Patent No. 6,865,160 issued to Bare (“**Bare**”). Office Action, p. 9. Claims 53 and 70 depends on independent claim 38, and stand rejected under § 103(a) as purportedly being unpatentable under § 103(a) over Spiegel in view of Perlman and Fukushima. Office Action, pp. 11.

The Office Action indicates that claim 54, which depended on claim 38, is allowable.

Applicant has amended independent claim 38 to include the limitations of allowed claim 54, which has now been canceled. Accordingly, claim 38 is now believed to be in condition for allowance.

Claims 39-53 and 55-70 depend on independent claim 38. Applicant therefore respectfully submits that claims 39-53 and 55-70 are also in condition for allowance.

Accordingly, Applicant respectfully requests that the rejections under § 103(a) of claims 38-53 and 55-70 be withdrawn.

Rejections under § 103(a) over Spiegel and Fukushima

Claims 165-168, 179-182, 193-196, and 207-210 stand rejected under § 103(a) as purportedly being unpatentable under § 103(a) over Spiegel in view of Fukushima. See Office Action, p. 14. As discussed above, the Office Action also indicated that claim 222, now canceled, also stood rejected under § 103(a) over Spiegel in view of Fukushima. Applicant respectfully submits that the claims are allowable because a person having ordinary skill in the art would not make the proposed combination of references, and further because the cited passages of the references, whether taken individually or in combination, fail to disclose each limitation of Applicant's claims.

For example, claim 165 depends on independent claim 163 and therefore includes the limitation of adding the link state advertisement to a link state database “maintained at said downstream node”). As noted above, this limitation was formerly presented in Applicant's claim 222, which does not appear to have been discussed in the pending Office Action. Applicant believes that at least this limitation of claim 165 is absent from the cited passages of Fukushima and Spiegel, whether taken individually or in combination.

At least for this reason, Applicant respectfully submits that claim 165 is allowable under §103(a). At least for similar reasons, Applicant respectfully submits that claims 166-168, 179-182, 193-196, and 207-210 are also allowable under §103(a).

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097. For example, if any of Applicant's above-noted understandings regarding claims 48, 118, 131, 144, and 157, or former claim 222 is in error, Applicant would appreciate an opportunity to clarify the Examiner's position regarding these claims.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. §§ 1.16 or 1.17, be charged to deposit account 502306.

I hereby certify that this correspondence is being submitted to the U.S. Patent and Trademark Office in accordance with 37 C.F.R. § 1.8 on September 29, 2009 (CT) by being (a) transmitted via the USPTO's electronic filing system; or (b) transmitted by facsimile to 571-273-8300; or (c) deposited with the U.S. Postal Service as First Class Mail in an envelope with sufficient postage addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450.

/ Cyrus F. Bharucha /
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Date

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